IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 10TH DECEMBER 2007 / 19TH AGRAHAYANA 1929

Crl.MC.No. 3660 of 2007()

C.P.NO.20/06 OF J.F.C.M, CHANGANACHERRY

PETITIONER: ACCUSED

VINODH, PLANTHOTTATHIL KAROTTU,
THRIKKODITHANAM, CHANGANACHERRY.

BY ADV. SRI.M.P.MADHAVANKUTTY

RESPONDENTS: COMPLAINANT

STATE OF KERALA, REPRESENTED BY ITS
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.GIKKU JACOB

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 10/12/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

Crl.M.C.No.3660 of 2007

Dated this the 10th day of December, 2007

O R D E R

Petitioner faces indictment in a prosecution under the Kerala Abkari Act. The petitioner was arrested at the crime stage. He was enlarged on bail. Investigation was completed. Final report was filed. Cognizance was taken. Committal proceedings has been registered. Summons was issued to the petitioner. The petitioner could not appear before the learned Magistrate. Consequently reckoning him as an absconding accused, warrant of arrest has been issued against the petitioner.

2. According to the petitioner, he is innocent. His absence earlier was not wilful or deliberate. He is willing to surrender before the learned Magistrate and apply for bail. But he apprehends that his application for regular bail may not be considered by the learned Magistrate on merits, in accordance with law and expeditiously. It is therefore prayed that directions under Section 482 Cr.P.C may be issued in favour of the petitioner.

3. It is for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate the circumstances under which he could not earlier appear before the learned Magistrate.

I have no reason to assume that the learned Magistrate would not consider such application on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific direction appears to be necessary. Sufficient general directions have already been issued in **Alice George v. The Deputy Superintendent of Police [**2003(1) KLT 339].

4. This Crl.M.C is, in these circumstances, dismissed, but with the specific observation that if the petitioner appears before the learned Magistrate and applies for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously - on the date of surrender itself.

(R.BASANT, JUDGE)

rtr/-